

AMENDED IN ASSEMBLY JUNE 25, 1997

SENATE BILL

No. 97

Introduced by Senator Alpert

(Coauthors: Senators McPherson and Solis)

(Coauthors: Assembly Members Baca, Cardoza, Cunneen, Granlund, Havice, Knox, Kuehl, Lempert, Washington, Wayne, and Woods)

December 19, 1996

An act to amend Section 1377 of the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

SB 97, as amended, Alpert. Civil compromise: crimes against children and elders.

Existing law establishes a procedure for the civil compromise of misdemeanor offenses whereby when a person injured by an act constituting a misdemeanor has a remedy through a civil action, the criminal proceeding may be stayed by the court and the defendant discharged if the victim acknowledges receiving satisfactory compensation for the injury. Civil compromise is not allowed in certain cases, including cases of domestic violence under certain conditions.

This bill would add to those types of cases in which civil compromise is not allowed *violations of specified protective orders relating to minors and cases involving elder abuse or child abuse or molestation.*

This bill would also incorporate additional changes in Section 1377 of the Penal Code enacted by SB 115 (Ch. 18, Stats. 1997).

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1377 of the Penal Code is
2 amended to read:
3 1377. ~~(a)~~ When the person injured by an act
4 constituting a misdemeanor has a remedy by a civil
5 action, the offense may be compromised, as provided in
6 Section 1378, except when it is committed as follows:
7 ~~(1)~~
8 (a) By or upon an officer of justice, while in the
9 execution of the duties of his or her office.
10 ~~(2)~~
11 (b) Riotously.
12 ~~(3)~~
13 (c) With an intent to commit a felony.
14 ~~(4)~~
15 (d) In violation of any court order as described in
16 Section 273.6 or 273.65.
17 ~~(5)~~
18 (e) By or upon any family or household member, or
19 upon any person when the violation involves any person
20 described in Section 6211 of the Family Code or
21 subdivision (b) of Section 13700 of this code, ~~and when~~
22 ~~the defendant has civilly compromised any domestic~~
23 ~~violence offense committed upon any victim within~~
24 ~~seven years of the commission of the currently charged~~
25 ~~offense.~~
26 ~~(6)~~
27 (f) Upon an elder, in violation of Section 368 of this
28 code or Section 15656 of the Welfare and Institutions
29 Code.
30 ~~(7)~~
31 (g) Upon a child, as described in Section 647.6 or
32 11165.6.
33 ~~(b) When an offense by or upon any family or~~
34 ~~household member, or upon any person, when the~~
35 ~~violation involves any person described in Section 6211 of~~

1 ~~the Family Code or subdivision (b) of Section 13700 of this~~
2 ~~code, is sought to be compromised and the prosecution~~
3 ~~objects to that civil compromise pursuant to this section;~~
4 ~~the court shall hold a hearing that is noticed within 10~~
5 ~~court days where the victim is present and acknowledges~~
6 ~~and presents proof of satisfaction for injury. During the~~
7 ~~hearing, the prosecution shall have an opportunity to~~
8 ~~present evidence and make arguments with regard to the~~
9 ~~proposed civil compromise, and the court may question~~
10 ~~the victim in open court on the issue of the satisfaction~~
11 ~~being presented as a basis for the compromise. The court~~
12 ~~shall require a defendant who enters into a civil~~
13 ~~compromise to attend a batterer's program. The amount~~
14 ~~of program sessions shall be determined by the court, but~~
15 ~~shall not be less than eight hours.~~

16 ~~(c) For purposes of this subdivision, a victim of a~~
17 ~~domestic violence offense is a person described in Section~~
18 ~~6211 of the Family Code or subdivision (b) of Section~~
19 ~~13700 of this code.~~

